#### STATE OF ARIZONA FILED

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# STATE OF ARIZONA

DEPT. OF INSURANCE BY\_\_\_\_\_

### DEPARTMENT OF INSURANCE

In the Matter of:

Docket No. 96A-179

MATTHEW THOMAS BURGASON,

CONSENT ORDER

Respondent.

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A Notice of Hearing was issued by the Director ("Director") of the Arizona Department of Insurance (the "Department") on

of violations of A.R.S. Title 20 committed by Respondent.

Respondent received a copy of this Notice. Respondent has been

October 21, 1996, wherein the Department made certain allegations

advised of his right to a hearing in this matter, which he waives.

Respondent admits the following Findings of Fact are true and consents to the entry of the following Conclusions of Law and Order.

#### FINDINGS OF FACT

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1. Matthew Thomas Burgason is currently licensed as a life and disability and variable annuity agent. (License No. 567895)

That license is due to expire April 30, 1997.

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2. On or about December 29, 1993, Mr. Burgason met with Lou P. Hoover to discuss the purchase of an annuity contract with Anchor National Life Insurance Company ("Anchor National").

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3. At the time Mr. Burgason met with Mr. Hoover, Mr. Burgason was authorized to transact insurance for Anchor National as a subproducer for an Anchor National general agent.

- 4. On or about December 29, 1993, Mr. Burgason accepted from Mr. Hoover check number 3013, in the amount of \$18,852.16 made payable to "Polaris" to purchase a variable annuity from Anchor National. Anchor National sells an annuity product referred to as Polaris.
- 5. Mr. Burgason subsequently deposited Mr. Hoover's check into account #09580494 with Bank One. Mr. Burgason had previously opened that account in the name "Polaris". Mr. Burgason is the only authorized signer on that account.
- 6. Mr. Burgason failed to forward any application or premium to Anchor National on behalf of Mr. Hoover and instead misappropriated the premium and/or converted it to his own use.
- 7. On or about January 3, 1994 and April 1, 1994, Mr. Burgason fabricated and forwarded quarterly reports to Mr. Hoover that purported to show the status of Mr. Hoover's Polaris account.
- 8. In or around December, 1996, a Polaris variable annuity contract was purchased by SunAmerica Securities, in the name of Lou P. Hoover, with a value of \$26,731.31, through Anchor National. SunAmerica Securities has not been reimbursed by Mr. Burgason for the Polaris variable annuity contract they purchased on behalf of Mr. Hoover.

## CONCLUSIONS OF LAW

- 1. The Department has jurisdiction in this matter.
- 2. Burgason's conduct alleged above constitutes a record of dishonesty in business or financial matters in violation of A.R.S. § 20-316(A)(1) together with A.R.S. § 20-290(B)(2).

NOW, THEREFORE, IT IS ORDERED:

1. Burgason's insurance license is immediately revoked.

ORDER

- 3. Burgason's conduct alleged above constitutes the misappropriation or conversion to his own use or illegal withholding of monies belonging to policyholders, insurers, beneficiaries or other and received in or during the conduct of business under the license or through its use in violation of A.R.S. § 20-316(A)(4).
- 4. Burgason's conduct alleged above constitutes a conduct of affairs under the license showing the licensee to be incompetent or a source of injury and loss to, or repeated complaint by, the public or any insurer within the meaning of A.R.S. § 20-316(A)(7).
- 5. Burgason's conduct alleged above constitutes an act of fraud in that Mr. Burgason knowingly and with intent to defraud diverted or attempted or conspired to divert the monies of an insurer in connection with the transaction of insurance within the meaning of A.R.S. § 20-463(A)(4)(a).
- 6. Grounds exist for the Director to suspend, revoke or refuse to renew Burgason's insurance licenses, impose a civil penalty upon Burgason, and/or order restitution, pursuant to A.R.S. § 20-316(A) and §20-316(C).

2. Burgason shall comply with the restitution ordered in <a href="State v. Matthew Thomas Burgason">State v. Matthew Thomas Burgason</a>, Maricopa County Superior Court, No. CR 97-01850.

DATED this  $\frac{3}{2}$  day of  $\frac{1997}{2}$ .

JOHN A. GREENE, Director Arizona Department of Insurance

## CONSENT TO ORDER

- 1. Burgason has reviewed the attached Order.
- 2. Burgason is aware of his right to a hearing at which hearing he may be represented by counsel, present evidence and cross-examine witnesses. Burgason waives his right to demand a public hearing and to seek judicial review of this Consent Order.
- 3. Burgason admits the jurisdiction of the Director of Insurance, State of Arizona, admits the forgoing Findings of Fact, consent to the entry of the foregoing Conclusions of Law and consents to the entry of this Order.
- 4. Burgason states that no promise of any kind or nature has been made to induce him to enter into this Order and that he has entered into this order voluntarily.
- 5. Burgason acknowledges that the acceptance of this Order by the Director of Insurance, State of Arizona, is solely to settle this matter against him and does not preclude any other

agency or officer of this state or subdivision from instituting 2 other civil or criminal proceedings as may be appropriate now or 3 in the future. 4 5 6 7 8 COPY of the foregoing mailed 9 this <u>3rd</u> day of <u>April</u> 1997, to: 10 Michael J. De La Cruz Assistant Attorney General 11 1275 West Washington, Room 259 12 Phoenix, Arizona 85018 13 | Charles R. Cohen, Deputy Director John Gagne, Assistant Director Arnold Sniegowski, Investigator Maureen Catalioto, Supervisor Department of Insurance 2910 North 44th Street, Suite 210 16 Phoenix, AZ 85018 17 Joel P. Hoxie, Esq. Snell & Wilmer, L.L.P. 18 One Arizona Center 400 E. Van Buren 19 Phoenix, AZ 85004-0001 Attorney for Respondent 20 Matthew Thomas Burgason 21 1480 N. Woodside Rd. Chandler, AZ 85224 22 Matthew Thomas Burgason 23 6900 E. Indian School Road, Suite 106 Scottsdale, AZ 85251 24

Lou P. Hoover

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8	Manufacturers Life Insurance Company P.O. Box 600
9	Buffalo, NY 14201-0600
10	Pan-American Life Insurance Company P.O. Box 60219
11	New Orleans, LA 70160
12	Hawkeye National Life Insurance Company
13	P.O. box 10358 Des Moines, IA 50306
14	Royal Maccabees Life Insurance Company
15	P.O. Box 2165 Southfield, MI 48037-2165
16	Life USA Insurance Company P.O. Box 59060
17	Minneapolis, MN 55459-0060
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